

FILED WITH LRC TIME: <u>1 p.m.</u> JUL 05 2012 Donna Little REGULATIONS COMPILER
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1 Cabinet for Health and Family Services

2 Office of Health Policy

3 (Amendment)

4 900 KAR 6:085. Implementation [Transfers] of outstanding Certificate of Need when  
5 ownership has changed.

6 RELATES TO: KRS 216B.010, 216B.061(1)(h), 216B.0615, 216B.990

7 STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 216B.040(2)(a)1

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)1 requires the  
9 Cabinet for Health and Family Services to administer Kentucky's Certificate of Need  
10 Program and to promulgate administrative regulations as necessary for the program.  
11 This administrative regulation establishes the guidelines for the implementation  
12 [transfer] of outstanding [a] Certificates [certificate] of Need[need] when ownership has  
13 changed for an existing licensed facility [for the orderly administration of the Certificate  
14 of Need Program].

15 Section 1. Definitions. (1) "Cabinet" is defined by KRS 216B.015(5).

16 (2) "Outstanding" means a project has not been implemented and a license has not  
17 been issued by the Office of Inspector General.

18 (3) "Owner" means a person as defined in KRS 216B.015(21) who is applying for  
19 the certificate of need and will become the licensee of the proposed health service or  
20 facility.

21 Section 2. Implementation [Transfers] of outstanding Certificates of Need when

1 ownership has changed. (1) A Certificate[s] of Need ~~[need]~~ issued by the cabinet to an  
2 existing licensed facility for purposes other than replacement of the facility may be  
3 implemented by ~~[transferred to]~~ the new owner of the facility if the change of ownership  
4 occurs prior to implementation of the outstanding project for which the Certificate  
5 ~~[certificate]~~ of Need ~~[need]~~ was issued.

6 (2) The purchase of all capital stock or a controlling interest of capital stock of [a  
7 ~~person who is~~] the holder of an approved Certificate ~~[certificate]~~ of Need ~~[need]~~ for the  
8 establishment of a new health facility shall not constitute the sale, trade, or transfer of a  
9 Certificate ~~[certificate]~~ of Need ~~[need to another person]~~ for purposes of KRS  
10 216B.061(1)(h) and 216B.0615.


900 KAR 6:085

This is to certify that the Executive Director of the Office of Health Policy has reviewed and recommended this administrative regulation prior to its adoption, as required by KRS 156.070(4)

APPROVED:

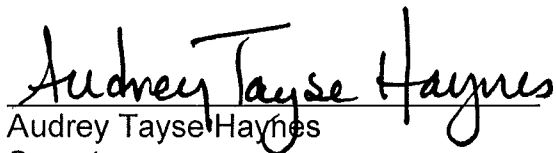


Carrie Banahan  
Executive Director  
Office of Health Policy

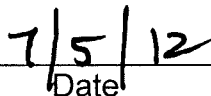


Date

APPROVED:



Audrey Tayse Haynes  
Secretary  
Cabinet for Health and Family Services



Date

**PUBLIC HEARING AND COMMENTS:**

A public hearing on this administrative regulation shall, if requested, be held on August 21, 2012, at 9:00 a.m. in the Public Health Auditorium located on the First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by August 14, 2012, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until close of business August 31, 2012. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

**CONTACT PERSON:** Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40621, (502) 564-7905, Fax: (502) 564-7573

## REGULATORY IMPACT ANALYSIS AND TEIRING STATEMENT

Administrative Regulation Number: 900 KAR 6:085

Contact Person: Carrie Banahan or Chandra Venettozzi, (502) 564-9589

1. Provide a brief summary of:

- (a) What this administrative regulation does: This administrative regulation establishes the guidelines for implementation of outstanding certificate or need when ownership has changed.
- (b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the content of the authorizing statute: KRS 216B.040(2)(a)(1).
- (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216B.040(2)(a)(1) by establishing the guidelines for implementation of outstanding certificate or need when ownership has changed.
- (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of KRS 216B.040(2)(a)(1) by establishing the guidelines for implementation of outstanding certificate or need when ownership has changed.

2. If this is an amendment to an existing administrative regulation, provide a brief summary of:

- (a) How the amendment will change this existing administrative regulation: The intent of the existing administrative regulation remains unchanged. Language has been modified to more clearly state the purpose of the regulation.
- (b) The necessity of the amendment to this administrative regulation: This amendment is necessary to more clearly state the purpose of the regulation.
- (c) How the amendment conforms to the content of the authorizing statutes: The amendment carries out the requirements of KRS216B.040(2)(a)(1).
- (d) How the amendment will assist in the effective administration of the statutes: This amendment will more clearly state the how the implementation of outstanding Certificate of Need when ownership has changed may occur.

3. List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect health care providers governed by the Certificate of Need law, citizens who use health care in Kentucky, health planners in the Certificate of Need Program, and local communities that plan for, use, or develop community health care facilities. Approximately 160 applications for Certificate of Need are received annually.
4. Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
  - (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: As the guidelines for implementation of outstanding certificate or need when ownership has changed are currently established and operational, no new action will be required of regulated entities to comply with this regulation.
  - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As the guidelines for implementation of outstanding certificate or need when ownership has changed as set forth in the administrative regulation are currently established and operational, no cost will be incurred by regulated entities to comply with this regulation.
  - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities are benefited as information related to implementation of outstanding certificate or need when ownership has changed makes this regulation clearer and more concise.
5. Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
  - (a) Initially: No cost
  - (b) On a continuing basis: No cost
6. What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary since there is no cost to implementing this administrative regulation.
7. Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding is necessary.

8. State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees and does not increase any fees either directly or indirectly.
9. TIERING: Is tiering applied? (Explain why or why not)  
Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 900 KAR 6:090    Contact Person: Carrie Banahan or Chandra Venettozzi

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes   X      No       

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This amendment may impact any government owned, controlled or proposed healthcare facilities or services.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.040(2)(a)(1).
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. None.
- (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No impact to revenues.
  - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenues will be generated to state or local government.
  - (c) How much will it cost to administer this program for the first year? None.
  - (d) How much will it cost to administer this program for subsequent years? None.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.



Revenues (+/-): None  
Expenditures (+/-): None  
Other Explanation: None